

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA)

v.)

LEE BOYD MALVO)

CRIMINAL NO. 102888)

RESPONSE TO MOTION FOR APPOINTMENT
AND FUNDING A OF A HANDWRITING EXPERT

In the leading Virginia case on the appointment of experts, the Virginia Supreme Court said the following:

“Moreover, an indigent defendant’s constitutional right to the appointment of an expert, at the Commonwealth’s expense, is not absolute. We hold that an indigent defendant who seeks the appointment of an expert witness, at the Commonwealth’s expense, must demonstrate that the subject which necessitates the assistance of the expert is likely to be a significant factor in his defense, and that he will be prejudiced by the lack of the expert assistance.” (Citations omitted)

Husske v. Commonwealth, 251 Va. 203, 212 (1996).


Handwriting evidence will not be a significant factor in this case. The Commonwealth will not introduce expert handwriting evidence because one of the notes in question has on it the DNA of this defendant. The same DNA report excludes John Muhammad as a contributor. The Commonwealth opposes spending tax-payers money on what will be a non-issue.

Respectfully submitted,

ROBERT F. HORAN, JR.
Commonwealth’s Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Response to Motion for Change of Venue was mailed, postage prepaid, to Michael Arif, Counsel for Defendant, 8001 Braddock Road, # 105, Springfield, Virginia 22151, and Craig Cooley, Counsel for the Defendant, 3000 Idlewood Avenue, P.O. Box 7268, Richmond, Virginia 23221, this 23rd day of May, 2003.


ROBERT F. HORAN, JR.
Commonwealth's Attorney